7 + 2

App. F. IX-4

Previous References

193 4. (Law)

File No. 16. 34

Serial Nos. 1 – 3

Later References.
Law 6. 34 5 6

~~A~~ (26)

Preserve

PRESERVED

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. Three

Part B for Sept 34

SUBJECT.

Civil pets. no. 2 of 34-35 on the file of the Hcl. of Mysore (Proceedings against – Messrs C. Narasimhacya and P. Gopala Krishna Setty, Advocates, Mysore)

WD 01965—GPB—15,000—7-7-34

Dr Abdul Hye
4. x. 34.

Serial No.

27 JULY 1934 No. 760

Letter No. CR 21/34-35 dated 26th July 1934 from the Registrar, High Court forwarding a copy of the charges framed against Mr C. Narasimhaiya & Mr P. Gopalakrishna Setty, President & Secy respectively of the Mysore Bar Assn and requesting for instructions being issued to the G.A. under rule 23 of the Legal Affairs Rules—

This case arises out of the resolutions passed by the Mysore Bar Association criticising the Civil Circular No. 304 dated 26th June 1934 issued by the High Court. The relevant resolutions are recited in the charge framed by the High Court. The case is posted to 30th instant and the High Court requests instructions being issued to the Govt Advocate to appear ~~appeared~~ in the case, to support the charges.

Submitted for orders

Gen Secy) MP 26.7.34

This is not in the letter SPR

The Govt Advocate may be instructed to appear in the case and support the charges.

Second Member
Dewan.

Chief 26.7.34.

The G.A. may be instructed to appear in the case & support the charges.

I agree

SPR 27.7.34

Dewan. Chief.

OFFICE OF THE SECOND MEMBER OF COUNCIL 27 JULY 1934 No. 461

NOTE—Contn. Sheet.

WD 01536—GPB—7,500—5-4-31

568

Law File No. 16 of 1936. | General and Revenue Secretariat

Issue the Draft G.O. further today.

MRP
27.7.34

To,

The Govt. Ad.

Regr. H. Ct.

Comptroller to Govt.

G.O. no. 1. 4 Rev. 56 Law 16-34 R dt 27.7.34

instructing the Govt. Ad. to appear in the Case and Support the Charge.

743-934

In reply please refer to
No. 120

OFFICE OF THE GOVERNMENT ADVOCATE
IN MYSORE,

Bangalore, 8th August *1934.*

Law 16-34-3

FROM

A. R. NAGESVARA IYER, ESQ., B.A., B.L.,
GOVERNMENT ADVOCATE IN MYSORE,
BANGALORE.

GENERAL SECRETARY
10 AUG. 1934

To

The General Secretary to the Govt.
of H. H. The Maharaja of Mysore,
BANGALORE.

SIR,

I have the honor to acknowledge receipt of Government Order No. P.454-56/Law. 16-34-2 dated the 27th July 1934, authorising me to appear in Civil Petition No. 2 of 1934-35 on the file of the High Court of Mysore (Proceedings against Messrs. C. Narasimhaiya and P. Gopalakrishna Setty, Advocates, Mysore) and to state that I shall appear in the case as desired and do the needful in the matter. The result will be intimated to you as soon as the case is disposed of. It now stands adjourned for Hearing to the 27th August 1934.

I have the honor to be,
Sir,
Your most obedient servant,

A. R. Nageswara Iyer
Government Advocate.

CSN.

Submitted for perusal

ISD 13/8 (Gensey) 13/8

Second Member.

OFFICE OF THE SECOND MEMBER OF COUNCIL
15 AUG 1934
No. 116

15-8-34

15/8

In reply please refer to
No. 280

OFFICE OF THE GOVERNMENT ADVOCATE
IN MYSORE,

Bangalore,...10th....September...*193* 4

FROM

A. R. NAGESVARA IYER, ESQ., B.A., B.L.,
GOVERNMENT ADVOCATE IN MYSORE,
BANGALORE.

GENERAL SECTT.
10 SEP. 19

To

The General Secretary to the Govt.
of H. H. The Maharaja of Mysore,
BANGALORE.

SIR,

In continuation of this office letter No. 190 dated the 4th September 1934, I have the honor to forward herewith, for the information of Government, copy of a Reply Statement filed by Mr. Mirle N. Lakshminaranappa, Advocate, on behalf of his clients - Messrs. C. Narasimhaiya and P. Gopalakrishna Setty, in Civil Petition No. 2 of 1934-35, (Proceedings under the Legal Practitioners' Regulation) on the file of the High Court of Mysore.

I have the honor to be,
Sir,
Your most obedient servant,

Government Advocate.

CSN.

Submitted for perusal
ISD 13/9 Gen Secy 13/9

SECOND MEETING OF LEGISLATIVE COUNCIL
14 SEPT. 1934
NO. 20-21

Second Number.
14.9.34
14.9
14/9
14.9.34

1564 25 834

In reply please refer to
No. 257

OFFICE OF THE GOVERNMENT ADVOCATE
IN MYSORE,

Bangalore,....14th.....September..193 4.

FROM

A. R. NAGESVARA IYER, ESQ., B.A., B.L.,
GOVERNMENT ADVOCATE IN MYSORE,
BANGALORE.

To

The General Secretary to the Govt.
of H. H. The Maharaja of Mysore,
BANGALORE.

SIR,

With reference to Government Order No. P.454-56/Law. 16-34-2 dated the 27th July 1934, I have the honor to state that Civil Petition No. 2 of 1934-35 on the file of the High Court of Mysore (Proceedings against Messrs. C. Narasimhaiya & P. Gopalakrishna Setty, Advocates, Mysore) came on for hearing this day and arguments were heard. As, however, the Opponents expressed regret the Rule was discharged.

2. A copy of the Order has been applied for and the same will be sent to you as soon as it is received in this office.

I have the honor to be,
Sir,
Your most obedient servant,

Government Advocate.

CSN.

In reply please refer to
No. 271

OFFICE OF THE GOVERNMENT ADVOCATE
IN MYSORE,

Bangalore, 21st September 1934.

GENERAL SECRETARY
21 SEP. 1934

FROM

A. R. NAGESVARA IYER, ESQ., B.A., B.L.,
GOVERNMENT ADVOCATE IN MYSORE,
BANGALORE.

To

The General Secretary to the Govt.
of H. H. The Maharaja of Mysore,
BANGALORE.

OFFICE OF THE
SECOND MEMBER OF COUNCIL.
25 SEPT. 1934
No. 2343

SIR,

In continuation of this office letter No. 257 dated the 14th September 1934, I have the honor to forward herewith, for the information of Government, a copy of the Order passed in Civil - Petition No. 2 of 1934-35 on the file of the High Court of Mysore, (In the matter of a Rule issued by the High Court against Messrs. C. Narasimhaiya and P. Gopalakrishna Setty, President & Secretary respectively, of the Bar Association, Mysore).

I have the honor to be,
Sir,
Your most obedient servant,

A. R. Nagesvara Iyer
Government Advocate.

Submitted for perusal
Gen Secy) 24/9/34

CSN. Send him.

24.9.34

24/9/34

25/9

25.9.34

B
26/9

Immediate.

588 934

CP.
R.O.C. No. 2/34.35
Dis.
Encl: Nil

HIGH COURT OF MYSORE,
Public Office Buildings, Cubbon Park,

Bangalore, 26th July 1934

Law 16.34.

FROM

S. Venkata Ranga Iyengar, Esq., B.A., LL.M.,
Registrar, High Court of Mysore.

To

R. Ranga Rao, Esq., B.A., B.L.,
Chief Secretary to Government,
Bangalore.

L.S.

Law

RR
26/7/34.

SIR,

I am directed to enclose herein a copy of the charges framed by the High Court against Mr. C. Narasimhaiya, B.A., B.L., Advocate and President, Bar Association, Mysore and Mr. P. Gopalakrishna Setty, B.A., B.L., Advocate and Joint Secretary, Bar Association, Mysore, who have been required to appear before the High Court at 11 A.M. on Monday, 30th July 1934, to show cause why they should not be dealt with under Section 11(f) of the Mysore Legal Practitioners' Regulation III of 1884 as amended by Regulations I of 1897, XII of 1919 and X of 1928 and to request that Government may be pleased to authorise and issue necessary instructions to the Government Advocate to appear in the said case on the said date under Rule 23 of the Rules for the conduct of Legal Affairs of Government.

I have the honour to be,

Sir,

Your most obedient servant,

S. Venkata Ranga Iyengar

REGISTRAR.

Mch

pnk.

IN THE HIGH COURT OF MYSORE AT BANGALORE.

Civil Petition No.2 of 1934-35.

Read copy of the resolutions forwarded by Mr. P. Gopalakrishna Setty, B.A., B.L., Honorary Joint Secretary of the Bar Association, Mysore, in his letter No.14 dated 20th July 1934 to the Registrar of the High Court of Mysore.

You, (i) Mr. C. Narasimhiah, B.A., B.L., Advocate and President, Bar Association, Mysore and

(ii) Mr. P. Gopalakrishna Setty, B.A., B.L., Advocate and Joint Secretary, Bar Association, Mysore, are hereby required to appear before the High Court of Mysore in the First Court Hall at 11 A.M. on Monday the 30th July 1934 to show cause why you should not be dealt with under Section 11(f) of the Mysore Legal Practitioners' Regulation III of 1884 as amended by Regulations I of 1897, XII of 1919 and X of 1928 on the following charges framed by the High Court of Mysore:-

I (1) That on the 19th day of July 1934 at an Extra Ordinary General Meeting of the Members of the Bar Association assembled at Mysore to consider the Civil Circular No.304 dated 26th June 1934 issued by the High Court of Mysore, you participated in passing the following resolutions which are of a contumacious character tending to hinder and embarass the proper administration of justice in Mysore and to bring the High Court of Mysore and particularly the Chief Justice, and the general administrative control of the High Court of Mysore into contempt:-

37

(1) "This Association take ~~xhx~~ strong exception to the tone and manner in which the Chief Justice of the High Court of Mysore has expressed - himself against Lawyers in his Inspection Notes as embodied in the Civil Circular No.304 dated 26th June 1924."

(2) "This Association considers that Circulars like the aforesaid tend to bring the judicial - administration of this Model State to great discredit within the Province and outside."

(4) "This Association is of opinion that the - attitude of the Chief Justice is not calculated to promote harmony and co-operation between the Bench and the Bar so essential for the - proper administration of Justice.

(5) "This Association is of opinion that the notions of the Chief Justice about the ~~xxxxx~~ craze of the Judges to win popularity with lawyers are peculiar and insulting and declares that - prestige and efficiency are not inconsistent with popularity."

(7) "This Association believes that more speedy disposals is not an end in itself and the craze for disposal brought about by incessant -- external pressure would make the judicial proceeding a farce and defeat the ends of - justice."

(8) "This Association desires to make it clear that the remarks of the Chief Justice about justice

being

being delayed on account of Lawyers ever seeking adjournments in all undeserved cases and the Judges, too readily granting the same, are opposed to facts and betray a lack of correct perspective and clear insight."

(9) "This Association learns that the first case referred to in the Civil Circular No.304 dated 26th June 1934 a copy of which was received by this Association on 12th July 1934 refers to the matter pending adjudication before the - High Court in C.P.No.64 of 1933-34 instituted against a Member of this Association for - omitting to bring to the notice of the Munsiff's Court an alleged alteration in the suit document and respectfully points out the -- irregularity in making a reference to a matter in a case which is subjudice."

(10)(ii)(1) "The comments on the incident are unfair and unwarranted,"

(3) "and the observation that the Counsel concerned always followed an illegal procedure and in all the cases in which the said -- Counsel appeared the evidence recorded by the Judge must be deemed to have been vitiated - thereby is an unwarranted sweeping generalisation which is prejudical to the interests of the parties, and this Association respectfully protests against the implication contained in the expression "demoralising atmosphere" which

is

is not only untrue but also highly insulting to the Members of the Mysore Bar."

(11) "and this Association protests that

(1) the manner in which its President who is a respected Senior Advocate has been referred to is highly derogatory,

(2) and the decision about the conduct of the advocates concerned without calling for their explanation is opposed to all principles of - justice."

II. That in the said meeting on the said 19th day of July 1934 you, under the guise of criticising Civil Circular No.304 dated 26th June 1934 issued under the authority of the High Court, made -- undignified, insulting, and grossly improper remarks against the Chief Justice and the High Court.

(Sd) S. Venkataranga Iyengar

REGISTRAR.

Copy

S. Venkataranga Iyengar

Registrar

IN THE HIGH COURT OF MYSORE AT BANGALORE.

CIVIL CIRCULAR No. 304, DATED 26TH JUNE 1934.

In the course of inspection of some of the Courts by the Chief Justice during the month of February 1934, the following irregularities were observed:—

A suit was found to have been filed in a certain Court on a time-barred document after altering the year 1926 into 1928 so as to bring the suit within the period of limitation.

The counsel for the plaintiff as an officer of the Court ought to have invited the attention of the Court to the suspicious alteration in the document on which his suit was based or at least in order to protect the interests of his client he ought to have explained it to satisfy the Judge that the party had no hand in the alteration. He ignored his duties both to the Court and to his client and omitted to make any mention of the alteration in his plaint.

Such a practice is unfortunately prevalent in many Courts, but the Judges are reluctant even to notice such omissions lest they should become "unpopular."

In the present instance even the head ministerial officer (the Head Munshi) did not check the plaint and invite the attention of the Judge to the alteration in the bond and obtain the initials to the same as he ought to have done. When this case came up in revision in C. R. P. No. 89 of 1932-33, the High Court made the following observation in the order:—

"There is one circumstance which has escaped the attention of the Munsiff and which cannot be omitted to be noticed. The legal practitioner who prepared the plaint and filed the suit on such a bond containing an admitted alteration of the year has not at all brought the above alteration to the notice of the Court. Nor has he explained in the plaint under what circumstances such an admitted alteration was made in the suit document. The Munsiff will enquire into the conduct of the legal practitioner concerned under the Legal Practitioners' Regulation and submit his report through the District Judge within two months."

In the face of the High Court's order to make the abovesaid enquiry under the Legal Practitioners' Regulation, the Munsiff simply took an explanation from the legal practitioner concerned and sent it and the District Judge also mechanically forwarded it to the High Court. The District Judge has now been called upon to submit the Munsiff's explanation and ordered to enquire into the case himself as required by the Legal Practitioners' Regulation and to submit a report to the High Court.

A Judge who shirks his responsibilities and is afraid to properly discharge his duties cannot be expected to command proper respect from the litigant public or to elevate the erring members of the Bar to a higher sense of their responsibilities. When he directs the prosecution of a party he should not be reluctant to point out the omissions of the educated legal practitioner and call upon him to explain his conduct since it was upon his legal advice that the party filed the suit.

So long as presiding officers of Courts place what they call "popularity" above their sense of duty and ignore what the law requires them to do in the interests of purity of the administration of justice and by reason of "weakness, ignorance, or like cause fail to take notice of the misconduct and to report the matter to the High Court," in the words of the Judges of the Calcutta High Court (44 Calcutta at 645, 646), the prestige of the Courts is bound to suffer. To the extent to which they take proper action in proper cases, they will inspire public confidence and enhance the prestige of the Courts, and the present feeling in the minds of the public that Judges prefer to overlook the shortcomings of the erring members of the Bar and sacrifice justice and public interests rather than incur their displeasure, cannot otherwise be eradicated.

In another Court, the Chief Justice sat with the presiding officer to watch the proceedings in Court and asked him to take up the oldest contested suit posted for the day and it was accordingly taken up. After the examination-in-chief of

the 1st defendant, his cross-examination was started. When the presiding officer was questioned as to what the defence was, he called upon the counsel to state what the defence was instead of himself replying, which clearly showed that the Judge began to record evidence without knowing what exactly the defence was. Then the trial was watched by the Chief Justice for more than two hours and during the whole of this period, the cross-examining counsel was repeating in his own language the answers of the witness and was dictating the recording of the evidence—at times he was reproducing the exact words of the witness—more often paraphrasing in his own language—at times even before the witness could complete his answers. It was the counsel's voice that was being heard and not that of the witness and the witness was not being allowed either to complete his answers or to say his last word in answer to the questions as he was entitled to do under the law.

During the whole period, the Judge was faithfully recording what the counsel was dictating without making the slightest attempt to stop the dictation of the counsel or to give protection to the witness to which he was entitled.

On seeing that the presiding Judge had ceased to regulate or control the proceedings, the presiding Judge was questioned as to whether that was the practice prevalent in his Court in the trial of contested suits, and the counsel abruptly intervened, the Judge keeping a silent attitude without realising that it was his primary duty to maintain proper order in judicial proceedings in his Court and that it was for him to give an answer to the enquiry.

After the counsel's admission regarding the irregularity of the procedure, the presiding Judge whispered some remarks in the Chief Justice's ears about the counsel concerned and stated that that was the reason why he did not interfere with what the counsel was doing. The whisper and the explanation did not commend themselves to the Chief Justice. He declined to accept them and pointed out to the presiding Judge that it was immaterial who the counsel was, that the complexion of judicial proceedings cannot be allowed to vary according to the counsel engaged in the case and that the law should not be disregarded on anybody's account.

Refinement and culture may be the privilege of the few and not of the many, and the elegance of the English language may not have attractions to every one. But the real question at issue was whether it was proper to allow a counsel to control the judicial proceedings and to adopt a procedure not authorised by law. Since the presiding Judge stated that the counsel concerned was a man whom he did not wish to interrupt and that this particular counsel always followed such a procedure, the logical inference follows that in all the cases in which the said counsel appeared, the evidence recorded by the Judge must be deemed to have been vitiated by the same illegal procedure adopted by the counsel and permitted by the Judge.

There was dereliction of duty on the part of the presiding Judge inasmuch as he failed to control or regulate the judicial proceedings and to realise his responsibility for maintaining order and discipline and no further proof is necessary to show in what a demoralising atmosphere he was working.

Another outstanding feature was that the trial proceeded in a most leisurely fashion and an energetic Judge would have recorded the same amount of evidence in less than half the time.

Again, it has to be pointed out that when an inspecting Judge watches the trial of a case, he does not by so doing supersede the presiding officer of the Court. Questions of propriety, relevancy or admissibility raised in the trial should be heard and decided by the presiding officer and not by the inspecting Judge. If in the course of the cross-examination of a witness, the inspecting Judge asks the presiding officer whether a particular question is relevant or admissible, or whether the witness does not require the protection of the Court, or whether the line of cross-examination is consistent with pleadings and issues in the case, it is purely a matter between the two Judges. Both decency and decorum require that the counsel should not interfere, and he ought not to forget that he appears and pleads for the party who engages him and not for the presiding officer of the Court. This convention is observed by the members of the Bar in all the Courts and if they think that they have got something to say in the matter, they invariably ask for permission to do so before interrupting the discussion between the presiding officer and the inspecting Judge. In this instance, however, the counsel made a violent departure and his action was opposed to all recognised notions of judicial etiquette.

When he admitted that the procedure adopted by him was not authorised by law, it did not occur to him that ordinary courtesy required that he should have apologised or expressed a word of regret to the Court for having followed an illegal procedure and disfigured the solemn judicial proceedings of a Court of Justice.

The picture of the trial of a contested suit which is the most important stage of a case and which is the only stage when the legal knowledge, experience, quick grasp and judicial talents possessed by a Judge ought to impress the proceedings is naturally coloured by the regularity, dignity, precision and legality of procedure with which the trial is conducted, and it is the duty of every member of the Bar, whoever he may be, to assist the Court to enhance the above picture and to do nothing to spoil it. The real efficiency of a Judge consists in presenting this picture in as correct and perfect a manner as possible, and to the extent to which he succeeds in so doing, he rises in the estimation of the public and enhances the prestige of the Court. It is to enable the Judge to present such a picture that he is armed with various statutory powers to properly regulate, direct and control the judicial proceedings before him. But if he folds his hands and refuses to exercise his powers or move his little finger when the above picture is disfigured, he cannot inspire public confidence and he cannot be trusted to enhance the prestige of the Judicial Department.

In another Court also the Chief Justice sat with the presiding Judge on the Bench to watch the trial of a case.

This was a suit on accounts and some of the items in the suit claim were denied by the defendant, and the first issue was:—"Are the suit items denied by the defendant true?" When the plaintiff was asked to enter the witness box for cross-examination, he presented a letter from his advocate who prayed for an adjournment on the ground of illness. The presiding officer refused to grant an adjournment and as three legal practitioners appeared for the plaintiff, he sent for the senior advocate for the plaintiff who was in another Court. This advocate who is said to be the President of a Law Association came and moved for an adjournment on the ground of his junior's illness, and it was refused. The presiding officer asked him to sit down and watch the plaintiff's cross-examination and re-examine the plaintiff on the next date. But the advocate pleaded inconvenience and left the Court without the permission of the Court, saying that he had some work in the District Court.

The plaintiff was cross-examined and there was no counsel to watch the plaintiff's interests although three legal practitioners had signed the plaint and vakalat. The plaintiff being a Mahommedan was cross-examined in Hindustani, and the defendant's advocate appeared to be a master of that language. But in the course of the cross-examination, the defendant's counsel was putting long and interminable questions which confused the plaintiff, and sometimes the same questions were repeated in another form although the witness had already answered them. The plaintiff who knew English frequently approached the Court for protection whenever he was confused or the same questions were repeated in an altered form. The presiding officer allowed his objections and eventually asked the defendant's advocate to cross-examine the plaintiff in English.

Legal practitioners are bound to make proper arrangements with the consent of their clients, especially in contested suits, to protect their interests if they are unable to attend the Court on the date of hearing. The presiding officers should insist on such arrangements being made, and should not allow legal practitioners to neglect their duties and leave the clients to their fate. In the present case, the presiding officer did not call upon the plaintiff's advocates to explain why they neglected the case and omitted to make proper arrangements.

S. VENKATARANGA IYENGAR,
Registrar.

The Subordinate Judges of the Civil Courts for information and guidance.

WD 8—GPB—500—4-7-34

PROCEEDINGS OF THE GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE.

Read :—

Letter No.C.P.No.2/34-35 dated 26th July 1934, from the Registrar, High Court of Mysore, forwarding copy of the charges framed under the Legal Practitioners Regulation by the High Court against Mr. C. Narasimhaiya, B.A., B.L., Advocate and President, Bar Association, Mysore and Mr. P. Gopalakrishna Setti, B.A., B.L., Advocate and Joint Secretary Bar Association, Mysore and requesting the Government Advocate to be authorised and instructed to appear in the said case posted for hearing to Monday the 30th July 1934.

ORDER NO. P 454 - 56 Law 16-34-2

Dated, Bangalore, the 27th July 1934.

The Government Advocate is requested to appear in the case and support the charges framed.

By order,

Jr. General Secretary to Government.

The Government Advocate, with a copy of charges framed
Registrar, High Court of Mysore.
Comptroller to Government.

K.".R.4/27.7.34.

G. R. S. App. F VI—G 2]

SUBJECT.....

.....

.....

Diary No. of letter replied to.....

Section Law

File No. 16-34

Serial No. 2

General and Revenue Secretariat

( )

the 193 .

Proceedings of the Government of His Highness the Maharaja of Mysore.

Date of issue 27/7/ 193 4.

Signed by .....

Read— Letter No: C.P. No: 2/34-35 dated 26th July 1934 from the Registrar, High Court of Mysore forwarding copy of the charges framed by the High Court against Mr C. Narasimhaiya, BA BL, Advocate & President, Bar Assn Mysore & Order thereon.—No Mr P. G. Narasimha Setti BA BL, Advocate & Jt Sec'y Bar Assn, Mysore, and requesting the G.A. to be authorised & instructed to appear in the said case posted for hearing to Monday the 30th July 1934. order. No 2454-56

May this be—

(i) printed ? under the Legal Practitioners Rep.

(ii) treated as a standing order ?

(iii) published in the Gazette, English part ?

(iv) translated ?

(v) placed at the disposal of the press ?

(vi) published in the Gazette, kannada part ?

1/ 75 ...1

The Government Advocate is requested to appear in the case and support the charges framed.

pp
V.J. Gen Secy

To

1) The G.A. with copy of charges framed
2) The Registrar, High Ct
3) The Comptroller & Govt.

List of Enclosure

Copied by

Examined by

WD 0254—GPB—10,000—22-8-32

IN THE HIGH COURT OF MYSORE AT BANGALORE.

Civil Petition No. 2 of 1934-35.

Re: Notice issued under section II (f) of the Mysore Legal Practitioners' Regulation III of 1894, as amended by Regulation I of 1897, XII of 1919 amd X of 1928 on C. Narasimhaiya, President, and P. Gopalakrishna Setty, Joint Secretary, Mysore Bar Association, Mysore.

Satement of C. Narasimhaiya and P. Gopalakrishna Setty in reply to the Notice:-

I. The Association received a copy of Circular No.304 dated 26th June 1934 from the High Court on 12th July 1934 and on the requisition of the members, the General Meeting of the Bar Association was convened on 15th July 1934 as per the rule of the Association. The President C. Narasimhaiya, one of us declined to act as Chairman of the Meeting on the ground that one of the incidents referredin the circular related to him. Therefore, Mr. B. Narasinga Rao was proposed as Chairman of the Meeting and he conducted the proceedings of the meeting on that day The meeting was adjourned to 19th July 1934

II. The Association in-quired into the details of the incident referred to in the circular and received statements from the Members of the Association who knew of the incidents.

III. On 19th July 1934, Mr. B. Narasinga Rao on account of his ilness could not attend the meeting. C. Narasimhaiya one of us did not desire to act as Chairman even on that day. Mr. B. S. Puttaswami, a Member, stated that under Rule 8 of the Bye-laws, the President alone should preside at the Meeting, and many other Members also expressed that

the President himself should preside. So, I, C. Narasimhaiya, made it clear at the meeting that I would not take part in the discussion or vote on any resolution, and that I would purely do the administrative part of the work as Chairman.

IV. I, P. Gopalakrishna Setti, the second of us was present at the meeting but did not speak and ddd not vote on any resolution. I am the Joint Secretary of the Association and in that capacity, I signed the communication of the Association forwarding the resolution as per the direction of the meeting. Mr. P. G. Ramachandra Rao, the Secretary, who was usually attending to such works is one of the person referred to in the circular of the High Court and therefore he did not sign the communication.

Copy.

V. Nilagiriswami Iyer

Govt. Advocate

IN THE HIGH COURT OF MYSORE AT BANGALORE.

Friday the 14th day of September 1934.

PRESENT

HON. H. D. C. REILLY, CHIEF JUSTICE,

HON. JUSTICE K. SHANKARANARAYANA RAO

and

HON. JUSTICE A. J. R. CHARI.

1934 - 935-

CIVIL PETITION NO. 2 OF 1933 - 1934.

In the matter of a Rule issued by the High Court against Messrs. C. Narasimhiah and P. Gopalakrishna Setty. (Advocates) - President and Joint Honorary Secretary respectively of the Bar Association, Mysore, to show cause why they should not be dealt with for misconduct under Section 11(f) of the Mysore Legal Practitioners Regulation III of 1884 as amended from time to time, in respect of certain Resolutions passed by the said Association in their Meeting held on 14th July 1934. to consider the Civil Circular No.904 dated 26th June 1934 issued by the High Court, and the Address of Rajadharmapravina Diwan Bahadur Mr. P. Mahadevayya, the late Chief Justice, as President of the First Judicial Assistant Conference held at Bangalore on the 7th of July 1934.

Heard:- Sir Alladi Krishnaswami Iyer for the Respondents.
Mr.A.R.Nageswara Iyer, Government Advocate for Government.

14th September 1934.

O R D E R.

In this case notice has been issued to the two Respondents, who are Advocates of this Court practising at Mysore, to show cause why they should not be dealt with for misconduct under Section 11(f) of the Legal Practitioners' Regulation for participating in certain resolutions passed by the Mysore District Bar Association on the 19th of July 1934, a copy of which was sent by Respondent 2 to this Court with a letter, dated the 20th of July 1934, in his capacity as Secretary of that Association, of which Respondent 1 is the President. Notice has been issued particularly to these Respondents because the resolutions as sent to this Cour were signed by the President, Respondent 1, and came with a letter signed by the -- Secretary, Respondent 2.

Sir Krishnaswami Iyer, who has appeared for the Respondents to-day, has very properly disclaimed any intention of raising any technical objection on behalf of the Respondents that they were only acting in their offcial capacity as officers of that Association. Nor could it be suggested, I think, that it makes any difference to our treatment of their conduct under the Legal Practitioners Regulation that the resolutions with which we are dealing are not resolutions for which

they were alone responsible but for which they and their Association, or at any rate the members who were present at the meeting of the Association were responsible. If the Respondents or any other legal practitioners are really guilty of misconduct, they cannot escape the consequences of their act by saying that they did it in a body with other persons. However it is unnecessary on this occasion to pursue that aspect of the case any further.

The resolutions with which we are concerned contain remarks and expressions of opinion regarding this Court and the late Chief Justice. The record of the resolutions sent to this Court shows that the meeting at which they were passed was called to consider Civil Circular 304, dated the 26th of June 1934, issued by this Court, and the address of the late Chief Justice as President of the first Judicial Officers' Conference at Bangalore on the 7th of July 1934. I do not understand why the meeting should have been called to consider that presidential address. I can see nothing whatever in that address to which any lawyer could reasonably take exception and very much to admire in it. And I should like to take this opportunity of saying that in my opinion my learned predecessor, the late Chief Justice of this Court, in his vigorous attempts to get the work of the Courts of this State done in a more prompt and business-like way was -- performing a very valuable public service, for

which

which we should all be grateful to him, and certainly not least the members of the Bar in their own interest and in the interest of their clients.

But the main subject for consideration at the meeting at which these resolutions were passed was the circular of this Court which I have mentioned. That circular was addressed to the subordinate Courts and to no one else. There was no intention that the circular should be sent to any member of the Bar or to any Bar Association. But a very unfortunate mistake, which was made about that circular, has led to very unfortunate misapprehensions and is really the cause of this case. By a mistake made in the office of this Court that circular, which was one might say a domestic matter between this Court and the Courts subordinate to it, was sent to every Bar Association in the State. The reason of that was that a good many years ago a previous Chief Justice made an order in relation to circulars of this Court dealing with matters of practice and procedure that, when they were issued to subordinate Courts, they should also be issued to Bar Associations, which would naturally be interested in them and wish to see them. Very unfortunately that order, which was intended to deal with that sort of circular, was applied by mistake to this circular, with which we are now concerned and which was not intended to go to any Bar Association at all. I understand that the

circular

circular somehow got into the public press; but I do not know how that happened. However, when this circular was once sent to Bar Associations, I think it is clear that any Bar Association which thought fit had a right to make a reply to it. The Bar Association of the Mysore District thought it necessary that they should make some reply. In my opinion they busied themselves a little unwisely in trying to fit some of the remarks in that circular to particular cases in which members of their Association had appeared. No names were mentioned in the circular at all, which was in the nature of general instructions to subordinate Courts as to how they should deal with certain matters and how they should deal with members of the Bar in certain circumstances. However, if the Mysore District Bar Association thought it necessary to investigate whether any of the remarks in that circular could apply to any member of their Association, that was their affair. And, being under the very reasonable misapprehension in consequence of the mistake which I have mentioned that this circular, which came to them, was -- intended for them as well as other Bar Association and not only for the Courts, there was nothing unreasonable or improper in their making a respectful reply to it or any respectful representations which they might think fit. There would have been nothing objectionable I think -- although the circular had not been intended for them and in that sense was not their affair -- if they had offered temperate criticism of the remarks made

in the circular or a respectful defence of the Bar against any statements in the circular to which they objected.

Sir Krishnaswami Iyer has laid stress before us to-day on the importance of the independence of the Bar. I need hardly say that my learned brothers and I are as interested in the -- independence of the Bar as he or any one else can be. Unless every member of the Bar feels free not only to urge his clients' cases but to make representations to us individually or collectively, we cannot get the assistance from members of the Bar which we have a right to expe We desire and expect of the members of the Bar a manly independence. But we expect and shal. exact also due respect for the Court.

The language of the resolutions which have been sent to this Court, is, I think it cannot be denied, in several places very highly improper. When I first read those resolutions, they caused me very great astonishment. As the resolutions were passed in reply to a circular sent by -- mistake to the Bar Association, which led them to a misapprehension that it was addressed to them, we are ready to make any possible allowance for the language used. But it is impossible for us not to express very strong condemnation of it. It was language such as no member of the Bar and no Association of the members of the Bar should have used about this Court. However Sir Krishnaswami Iyer has assured us that his clients and

the members of their Association had no intention whatever in passing these resolutions and in sending them to this Court to lower the prestige of this Court in any way; and on behalf of the Respondents he has expressed their regret for the excessive language used in these resolutions.

We are quite prepared to accept that assurance and that expression of regret. This is His Highness' Court, and I cannot believe that the Respondents as loyal subjects of His Highness and themselves officers of this Court could have had any deliberate intention of scandalizing the Court. That being so, taking into consideration the unfortunate mistake which was made in sending the circular to the Bar Association and the misapprehension thereby aroused in the minds of the Respondents and the members of the Association, we do not think that this matter need be pursued any further.

In conclusion I should only like to say that, while we hope that no member of the Bar will be under any apprehension that we shall not always be ready to listen to any reasonable and proper representations made to us, we also hope that no one will go away under any mistake that we shall not insist upon proper respect to the Court.

This rule against the Respondents will be discharged.

Sd/ M. D. C. Reilly
Chief Justice

I agree

Sd/ K. Shankaranarayana Rao
Judge

I agree

Sd/ A S R Chari
Judge

KVN/10.

Deputy Registrar